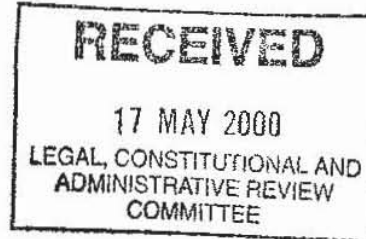




OFFICE OF THE CLERK OF THE HOUSE
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15 May 2000

Submission No 4
Spec 29.1

File ref: LAG 1655

Mr Gary Fenton, MLA
Chair
Legal, Constitutional and Administrative Review Committee
Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Fenton,

I refer to your letter seeking submissions on the Position Paper dated April 2000 on the Committee's review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution.

It is noted that the proposed changes are intended to consolidate and modernise Queensland's Constitution, and that the Committee considers that the recommendations set out in the Position Paper would attract bipartisan support. I can see no reason why this should not be so, as the recommendations would appear to be either confirming existing practices or making minor changes for the sake of consistency.

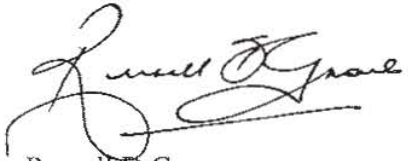
In relation to R16.5 (notification to the Treasurer of a Member's seat becoming vacant), it is noted that the QCRC recommended that the Speaker, rather than the Governor in Council, be the body designated to advise the Treasurer when the seat of a Member becomes vacant. The principle of separation of powers is important in these circumstances and the amendments proposed by the committee would appear to be a sufficient safeguard where it is the Speaker whose seat is vacated.

With respect to the Background Paper on Four Year Parliamentary Terms, it is noted that the Committee is familiar with the NSW legislation and the work of the Parliamentary Select Committee that initially investigated the proposal. One matter that has arisen since the introduction of the 4 year term legislation is the effect of a motion of no confidence in the Government, when the precise provisions of the Standing Order are varied by suspension of standing orders.

Under s24B(2) of the Constitution Act the Assembly may be dissolved by the Governor if a motion of no confidence in the Government is passed by the Assembly (being a motion of which not less than 3 clear days' notice has been given in the Legislative Assembly). On 8 September 1999, the Leader of the House suspended Standing Orders so that a no confidence

motion moved by the Leader of the Opposition was brought on forthwith, rather than 3 clear days after the notice was given. While the motion was negated, it is our view, based on Crown law advice, that the motion if passed would not have triggered the dissolution of the Assembly. A copy of the Crown Solicitor's advice is appended below for information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Russell D Grove', with a stylized flourish at the end.

Russell D Grove
Clerk of the Legislative Assembly